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THE SITUATION IN BURUNDI

SECURITY COUNCIL
Fiftieth year

Letter dated 8 March 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Burundi to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the copy of the Agreement embodying the Convention on Governance of 10 September 1994 between the forces of democratic change and the political parties of the opposition.

In view of the international community's interest in this document, which currently constitutes the primary national point of reference for overcoming the crisis that has been disrupting the country since October 1993, I should be grateful if you would have it circulated as a document of the General Assembly, under item 26 of the preliminary list, and of the Security Council.

(Signed) Melchiade BUKURU
Chargé d'affaires a.i.

* A/50/50.

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Annex

AGREEMENT EMBODYING A CONVENTION ON GOVERNANCE BETWEEN THE FORCES FOR DEMOCRATIC CHANGE, CONSISTING OF THE FRONT POUR LA DEMOCRATIE AU BURUNDI (FRODEBU), THE RASSEMBLEMENT DU PEUPLE BURUNDAIS (RPB), THE PARTI DU PEUPLE (PP), THE PARTI LIBERAL (PL) AND THE POLITICAL PARTIES OF THE OPPOSITION, COMPOSED OF THE UNION POUR LE PROGRES NATIONAL (UPRONA), THE RALLIEMENT POUR LA DEMOCRATIE ET LE DEVELOPPEMENT ECONOMIQUE ET SOCIAL (RADDES), INKINZO, THE PARTI SOCIAL DEMOCRATE (PSD), THE ALLIANCE NATIONALE POUR LE DROIT ET LE DEVELOPPEMENT (ANADDE), THE ALLIANCE BURUNDO-AFRICAINE POUR LE SALUT (ABASA), THE PARTI INDEPENDENT DES TRAVAILLEURS (PIT), THE PARTI POUR LA RECONCILIATION DU PEUPLE (PRP) AND THE PARTI POUR LE REDRESSEMENT NATIONAL (PARENA)

The forces of democratic change, consisting of FRODEBU, RPB, PP and PPL, and the political parties of the opposition, consisting of UPRONA, RADDES, INKINZO, PSD, ANADDE, ABASA, PIT, PRP AND PARENA,

Noting that the prevailing social and political situation in Burundi has profoundly undermined trust between the various groups which make up the people of Burundi, on the one hand, and between the people of Burundi and the institutions, organs and mechanisms for defining and exercising State power, on the other hand;

Noting that the roots of the crisis lie in Burundi's distant and recent past;

Resolved to build a future of peace, to rethink and revitalize the democratic process in a State based on the rule of law in the interest of all its citizens irrespective of ethnic, social or political affiliation;

Firmly committed to work for the speedy restoration of peace, security, trust and social and political stability in the country;

Convinced also that to this end, the consensus built through a sincere and fair reconciliation of the interests of the different political partners and the constituent parts of the nation is a determining factor for success in this undertaking;

Firmly determined to resolve the current crisis in such a way as to promote a lasting peace that can give new hope to the people of Burundi and guarantee security and prosperity for present and future generations;

Convinced that the current social and political system must be reconsidered and adapted to national realities, with a view to ensuring peace, security and continuity of the nation of Burundi;

Considering the disturbing state of the national economy and the urgent need for economic recovery;

Considering that it is of primordial importance to restore the cultural and moral values of our people, in order to preserve the nation and with a view to building a peaceful, just and prosperous society;

Considering that the Kigobe and Kajaga Agreements and the Rohero (Novotel) Protocols of Agreement were negotiated between political partners who had freely agreed to restore peace, security and trust in the country;

Considering further that constitutional legality should be respected to the fullest extent possible;

Taking into account the responsibilities incumbent on them for promoting a new dynamic process of national reconstruction;

Taking into account the overwhelming need to respect and implement the provisions of the Kigobe and Kajaga Agreements, the Rohero (Novotel) Protocols of Agreement, the Declaration of the Government and the political parties against the warmongers and in favour of peace and security and the Protocol of Agreement on the distribution of responsibilities within the territorial administration, documentation and migration services and the external services, after negotiation under the auspices of the Government of Burundi, acting also as political partners;

In the presence of the national observers represented by the Bureau of the Forum for the Negotiations, and the international observers, namely, the Special Representatives of the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity;

HAVE DECIDED TO ADOPT THIS CONVENTION ON GOVERNANCE.

TITLE I. GENERAL PROVISIONS

CHAPTER I. BASIC PRINCIPLES CONSTITUTING A POLITICAL ETHIC

Article 1. This Agreement embodying a convention on governance, hereinafter called "the Convention", is aimed at restoring and promoting the values of peace, social justice, patriotism and national unity.

It urges the political partners to attach the highest importance to:

- Devotion to the truth;
- Strict respect for the rights of the human person and individual freedoms, in particular, absolute respect for life.

Article 2. The Convention also seeks to build a State based on the rule of law through:

- The collegial and democratic definition and exercise of power;
- The promotion of the independence of the judiciary and the neutrality of the police force;
- Respect for the common good and the establishment of mechanisms for overseeing the management of the State;
- The education of the population, especially young people, in the values of peace and tolerance.

Article 3. Political consensus is a determining factor for the re-establishment of peace, security, trust and stability in the country.

It is embodied by the Framework for Concerted Action that brings together the political parties and the associations of civil society under the auspices of the Government.

The Government must formalize this Framework for Concerted Action within 30 days of the signature of this Convention.

CHAPTER II. DEFINITION

Article 4. The Convention on Governance is an agreement concluded between the registered political parties with a view to the establishment of institutions based on "consensus", the restoration of peace, security and trust, the emergence of a State based on the rule of law and the economic recovery of the country.

Article 5. With a view to the re-establishment of institutions, this Convention amends certain clauses of the current Constitution that have become inapplicable because of the crisis, pending a national debate to produce a constitution based

on democratic principles which guarantee the full development of all members of society.

Article 6. The Convention defines the tasks entrusted to the President of the Republic and the Government chosen on the basis of consensus. It governs the functioning of the institutions established on the basis of consensus and sets forth the guidelines for the smooth operation of the State. Pending its revision, the Constitution of the Republic shall continue to apply to the extent that it is not inconsistent with the provisions of this Convention.

CHAPTER III. PERIOD OF VALIDITY

Article 7. This Convention covers a transitional period commencing on the day of its signature and expiring on 9 June 1998.

Article 8. This Convention cannot be amended. However, the executive, with the concurrence of the Framework for Concerted Action may, where appropriate, take steps to conclude additional protocols.

TITLE II. TASKS ENTRUSTED TO THE PRESIDENT OF THE REPUBLIC AND TO THE GOVERNMENT

Article 9. The parties signatory to this Convention entrust the President of the Republic and the Government chosen on the basis of consensus with the implementation of tasks designed to achieve the following broad purposes:

- The country's return to peace and security;
- The disarmament of civilian population groups and the dismantling of militias;
- The establishment of a National Security Council that is well-balanced and effective;
- The reintegration of displaced persons and the repatriation and resettlement of refugees in conditions of optimum security;
- The organization of a substantive national debate on the country's major problems, with a view to the adoption of a National Covenant for Peaceful Coexistence between the constituent parts of the nation and an appropriate constitution;
- Constitutional reforms;
- Education of the inhabitants, especially young people, for peace, respect for life, tolerance and other democratic values;
- Support for production activities in all sectors of the national economy;

- Reconstruction of infrastructures and revival of the national economy;

- Reorganization of public financial management and protection of the nation's assets;

- Pursuit of national and international investigations relating to events since October 1993;

- Guaranteeing the independence of the judiciary and promoting the proper administration of justice;

- Guaranteeing and promoting fundamental freedoms of the human person, including the freedoms of expression and association and free enterprise;

- Study of the question of the Burundi diaspora.

TITLE III. INSTITUTIONS

CHAPTER I. THE PRESIDENT OF THE REPUBLIC

Article 10. The President of the Republic must be a person who inspires confidence and is capable of bringing together the people of Burundi in all its ethnic, social and political diversity. The primary task of the President as Head of State is to guarantee for each citizen the right to life and enjoyment of his freedoms with a view to his integral development.

Article 11. The President of the Republic must not have been involved, whether directly or indirectly, in any of the tragic events that have occurred since independence, in particular the coup d'état and the assassination of the President of the Republic on 21 October 1993, in what the political partners have agreed to call genocide, without prejudice to the findings of the independent national and international investigations, in the destruction of property, in the formation of militias or in the distribution and illegal use of arms. He must be chosen on the basis of consensus between the partners to this Convention.

Article 12. During the period covered by the Convention, the President of the Republic may not call on foreign troops without the approval of the National Security Council.

Article 13. The procedures for the appointment of the President of the Republic are set out in the Protocol of Agreement annexed to the present Convention, of which it is an integral part.

Article 14. The term of office of the President of the Republic shall be the same as the period during which this Convention is in force.

Article 15. All legislative, regulatory and administrative acts of the President of the Republic shall be countersigned by the Prime Minister, with the exception of acts signed pursuant to article 72, paragraph 1, of the

Constitution, and the appointment of members of the Cabinet of the President of the Republic.

CHAPTER II. THE NATIONAL SECURITY COUNCIL

Article 16. The National Security Council shall review acts of an important political nature proposed by the President of the Republic, in particular:

- Where exceptional circumstances lead to a declaration of war or to the signing of a truce;
- Before the declaration of a state of emergency where the institutions of the Republic or the fulfilment of its international commitments are under serious and immediate threat and where the normal functioning of its institutions is disrupted;
- In case of recourse to foreign mediation and/or military intervention;
- The appointment of senior military and civilian officials;
- The promulgation of laws;
- The holding of a referendum;
- Revision of the Constitution.

The National Security Council shall also, whenever necessary, serve as mediator between the various State institutions.

Article 17. The National Security Council shall comprise:

- The President of the Republic;
- The Prime Minister;
- The Minister for Foreign Affairs and Cooperation;
- The Minister of the Interior and Public Security;
- The Minister of Defence;
- A representative of the Partis des Forces de changement démocratique;
- A representative of the opposition parties;
- A representative of the National Unity Council;
- A representative of civil society;
- The permanent secretary, who shall be from a political grouping different from that of the President of the Republic.

Article 18. The President of the Republic and the Prime Minister shall be ex officio members of the National Security Council.

The other members shall be appointed by the President of the Republic on the recommendation of the political parties, after consultations with representatives of civil society. Their term of office shall be the same as the period covered by the present Convention.

Article 19. The members of the National Security Council shall meet as often as the situation requires and at least once a month; the meetings shall be convoked by the President of the Republic.

Article 20. The President of the Republic shall convoke the National Security Council if requested to do so by at least two of its members.

Article 21. Meetings of the National Security Council shall be chaired by the President of the Republic or, in his absence, by the Prime Minister. Decisions of the National Security Council shall be by a three-fourths majority. In the absence of the President of the Republic and of the Prime Minister, meetings shall be chaired by the oldest member of the Council.

Article 22. The National Security Council may invite to its meetings any person whose opinion it considers must be taken into account.

Article 23. Within thirty days of the signing of this Convention, an organizational law shall be enacted to define the tasks and procedures of the National Security Council.

CHAPTER III. THE PRIME MINISTER

Article 24. The Prime Minister must be a person who inspires confidence and unity, and must be from a different political grouping from that of the President of the Republic. He must not have been involved, whether directly or indirectly, in any of the tragic events that have occurred since independence, in particular the coup d'état and the assassination of the President of the Republic on 21 October 1993, in what the political partners have agreed to call genocide, without prejudice to the findings of the independent national and international investigations, in the destruction of property, in the formation of militias or in the distribution and illegal use of arms.

Article 25. The Prime Minister shall be appointed by the President of the Republic on the express recommendation of one or more interested political groupings and his appointment shall be the subject of consultations with and the common agreement of the other political grouping and civil society.

The Prime Minister shall coordinate all Government activities. He shall countersign all legislative, regulatory and administrative acts of the President of the Republic, with the exception of those adopted pursuant to article 72, paragraph 1, of the Constitution, and the appointment of the members of the Cabinet of the President of the Republic.

CHAPTER IV. THE GOVERNMENT

Article 26. In order to create a climate of trust among the political partners, a coalition Government shall be established to carry out the tasks entrusted to the President of the Republic and to the Government and which are specified in article 9.

Article 27. With the exception of the Minister of Defence and the Minister of Justice, the members of the Government shall be drawn from all the political formations which have signed this Convention, with 55 per cent coming from the Forces de Changement démocratique and 45 per cent from the opposition political parties.

Article 28. The Government shall be appointed by the President of the Republic on the recommendation of the Prime Minister, after consultations with regard to its structure and composition with the political parties that are signatories to this Convention. Recommendations shall be for one candidate only; where necessary, alternative candidates may be proposed successively.

Article 29. No one may enter or remain in the Government if such person has been directly or indirectly involved in the tragic events that have occurred since independence, in particular the coup d'état and the assassination of the President of the Republic on 21 October 1993, in what the political partners have agreed to call genocide, without prejudice to the findings of the independent national and international investigations, in the destruction of property, in the formation of militias or in the distribution and illegal use of arms.

Article 30. Where, for any reason whatsoever, a minister leaves the Government, he shall be replaced by a person from his own political formation.

A Minister may leave the Government on the initiative of the President of the Republic and/or the Prime Minister.

The President of the Republic and/or the Prime Minister may request the resignation of any member of Government who does not conform to the spirit and the letter of this Convention or who jeopardizes the functioning of the Government.

The Party with which a member of Government is affiliated may, on grounds deemed serious by the Conciliation Framework, require that member to resign.

Article 31. In accordance with article 86 of the Constitution, the Government shall comprise the Prime Minister, the Ministers and, if need be, Secretaries of State.

Article 32. During the period covered by this Convention, the Government shall have the following portfolios:

1. Ministry of Foreign Affairs and Cooperation
2. Ministry of the Interior and Public Security
3. Ministry of Justice
4. Ministry of Defence
5. Ministry of Planning, Development and Reconstruction
6. Ministry of Community Development
7. Ministry for the Reintegration and Resettlement of Displaced Persons and Returnees
8. Ministry of Physical Planning and Environment
9. Ministry of Agriculture and Animal Husbandry
10. Ministry of Finance
11. Ministry of Trade, Industry and Tourism
12. Ministry of Labour, Craft Industry and Vocational Training
13. Ministry of the Civil Service
14. Ministry of Education and Basic Education
15. Ministry of Secondary and Higher Education and Scientific Research
16. Ministry of Human Rights, Social Services and the Advancement of Women
17. Ministry of Youth, Sport and Culture
18. Ministry of Public Health
19. Ministry of Communication
20. Ministry of Public Works and Infrastructure
21. Ministry of Transport, Postal Services and Telecommunications
22. Ministry of Energy and Mines
23. Ministry of Institutional Reforms and Relations with the National Assembly
24. Office of the Secretary of State for Cooperation
25. Office of the Secretary of State for Public Safety

CHAPTER V. THE NATIONAL ASSEMBLY

Article 33. The National Assembly shall ratify this Convention and its annexes and shall be one of the principal guarantors of its strict application. The National Assembly may not change either the spirit or the letter of this Convention. Without prejudice to the provisions of article 50, in a spirit of cooperation with the national institutions established on the basis of consensus, and with a view to promoting peace and security, for the duration of this Convention the National Assembly shall agree to suspend its constitutional prerogatives with respect to mechanisms for dissolving the Government.

CHAPTER VI. THE JUDICIARY

Article 34. The judiciary shall dispense justice with complete independence. The other branches of government shall not interfere with the judiciary in order not to disrupt the normal course of justice. Judges at all levels are bound to dispense justice with complete fairness. The Supreme Council of the Judiciary shall ensure strict respect for the proper administration of justice, which shall guarantee the safety of all members of national society.

Article 35. The judiciary shall have a statute and be organized in such a way that it:

- Has sufficient human and financial resources;
- Is able to guarantee equal security for all.

Article 36. It is requested that an international judicial fact-finding mission be formed within 30 days; it shall be composed of competent and impartial persons to investigate the coup d'état of 21 October 1993 and what the political partners have agreed to call genocide without prejudice to the outcome of the independent national and international investigations, as well as the various political crimes that have been committed since October 1993.

CHAPTER VII. ADMINISTRATION AND SECURITY SERVICES OF DIPLOMATIC AND CONSULAR MISSIONS

Article 37. At all levels of public administration, recruitment and promotion to higher administrative and technical posts shall be consistent with the statutes and objective criteria of competence, in a transparent fashion.

Article 38. In order to respect, encourage and promote the careers of civil servants, clear legislation that distinguishes between political and administrative and technical posts shall be drawn up during the first months of the period covered by this Convention.

Article 39. With respect to the distribution of responsibilities in the Territorial Administration, External Services and the Documentation and Migration Services, the Protocol of Agreement between the political groupings, signed on 12 July 1994, and the supplementary agreement, signed on 22 July 1994, shall be applied. The effective implementation of these agreements shall be begun within 30 days following the formation of the Government.

Article 40. Any person involved, whether directly or indirectly, in the tragic events that have occurred since independence, in particular the coup d'état and the assassination of the President of the Republic on 21 October 1993, and in what the political partners have agreed to call genocide, without prejudice to the outcome of the independent national and international investigations, in the destruction of property, in the formation of militias or in the distribution and illegal use of arms, shall in every case be removed from office and shall not be recruited into provincial or community administrations.

Article 41. In the performance of their duties the security services and forces shall respect the principle of strict political neutrality. Participants in the political process shall refrain strictly from soliciting them for political activities.

Article 42. The security forces shall have at their disposal all necessary means to enable them to perform their mission of defence in an appropriate and timely manner and carry out the important task of disarming the civilian population and disbanding the militias and discouraging any form of violence or criminal behaviour.

Article 43. Pending an audit, which shall take place within three months after this Convention is signed, the security services shall retain their current organizational structure. However, a body shall be established at the government level to coordinate the various security services.

TITLE IV. MECHANISMS TO MONITOR THE IMPLEMENTATION OF THE CONVENTION

CHAPTER I. MONITORING COMMITTEE

Article 44. In accordance with the agreement signed on 1 June 1994, a monitoring committee shall be established and shall be composed of representatives from the political parties that are signatories to this Convention.

Article 45. The Monitoring Committee shall ensure regular follow-up of the implementation of this Convention. In its work, the Monitoring Committee may be expanded to include, when necessary, representatives of civil society.

CHAPTER II. CONCILIATION FRAMEWORK

Article 47. A conciliation framework shall be established and shall include the Bureau of the National Assembly, the National Security Council and the Bureau of the Forum for the Negotiations on this Convention.

Article 48. The Conciliation Framework shall be competent to serve as mediator between the signatories to this Convention in the event of a dispute concerning its interpretation or implementation.

Article 49. The Conciliation Framework shall act as a mediator.

TITLE V. FINAL PROVISIONS

Article 50. The institutions established on the basis of consensus derive their legitimacy from this Convention. The signatories to this Convention pledge to ensure, jointly and severally, its protection and implementation.

Failure to observe this Convention, duly verified by the National Assembly, the Framework for Concerted Action and the National Security Council, and after

conciliation, shall break the consensus and entail the immediate dissolution of all the institutions established on the basis of consensus.

Article 51. Upon their assumption of office, the President of the Republic and the Prime Minister shall affix their signatures to this Convention and solemnly pledge to implement it.

Article 52. Within 30 days following the formation of the Government, the President of the Republic shall appoint a national technical commission to prepare for the holding of a national debate on all the basic problems facing the country.

The aforementioned debate shall be held within six months. The international community shall be invited to make material and technical contributions. The registered political parties, civil society and the constituent parts of the nation shall take part in the preparations for the debate and in the debate itself.

Article 53. This Convention shall be translated into Kirundi and shall be widely disseminated among the population.

Article 54. This Government Convention is drawn up in three original copies, which shall be deposited with the National Assembly, the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity.

DONE at Bujumbura, on 10 September 1994.

POLITICAL PARTIES SIGNING THE CONVENTION

UPRONA	(Signed)	Charles MUKASI, President
PP	(Signed)	Shedrack NIYONKURU, President
FRODEBU	(Signed)	Jean-Marie NGENDAHAYO, for the President
RPB	(Signed)	Ernest KABUSHEMEYE, President
ANADDE	(Signed)	Ignace BANKAMWABO, President
PL	(Signed)	Gaëtan NIKOBAMYE, President
PSD	(Signed)	Vincent NDIKUMASABO, President
INKINZO	(Signed)	Alfonse RUGAMBARARA, President
PIT	(Signed)	Nicéphore NDIMURUKUNDO, President

FOR THE GOVERNMENT

(Signed) Sylvestre NIBANTUNGANYA
President of the Republic a.i.

(Signed) Anatole KANYENKIKO
Prime Minister

INTERNATIONAL OBSERVERS

(Signed) Ahmedou OULD ABDALLAH
Special Representative of the Secretary-General
of the United Nations

(Signed) Léandre BASSOLE
Special Representative of the Secretary-General
of the Organization for African Unity

OFFICE OF THE FORUM

(Signed) Monsignor Simon NTAMWANA

(Signed) Monsignor Bernard BUDUDIRA

(Signed) Antoine NIJEMBAZI

(Signed) Vincent KUBWIMANA